

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

ALLINA HEALTH SYSTEM d/b/a UNITED
HOSPITAL

Employer/Petitioner

and

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 113, AFL-CIO/CLC

Union

Case 18-UC-402

DECISION AND ORDER

The Employer/Petitioner (Employer) seeks to clarify the existing bargaining unit to exclude the surgical technologist instrument room position on the basis that the position is historically excluded from the bargaining unit. The Employer further contends that clarification of the bargaining unit is appropriate because the Union is pursuing grievances that seek to include the position within the bargaining unit. The Union purports to have disclaimed interest in representing the surgical technologist instrument room position, and on that basis argues that the petition should be dismissed. Based on an administrative investigation, I conclude that the unit should be clarified to exclude the surgical technologist instrument room position.

Under Section 3(b) of the Act, I have the authority to decide this matter on behalf of the National Labor Relations Board. Upon the entire file in this case, I find:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

2. The labor organization involved claims to represent certain employees of the Employer.

The Employer operates an acute care hospital. The Union represents non-professional employees employed by the Employer. The current contract between the Employer and Union is effective from March 1, 2003 through February 28, 2006. In September and December 2002, the Union filed two grievances alleging that the work being done by the surgical technologist instrument room employee is bargaining unit work. The grievances demand that the Employer include the surgical technologist instrument room position in the bargaining unit. The Union is currently pursuing at least one of these grievances. The Union has advised the Region that it is not seeking to accrete the surgical technologist instrument room position into the bargaining unit. Rather, the Union contends that it is merely challenging the Employer's assignment of work. The Union claims that it is requesting that the arbitrator return work to the bargaining unit that the surgical technologist instrument room employee is performing.

The investigation reveals, and the Union has provided no evidence to the contrary, that the surgical technologist instrument room position has existed since at least December 1998 and the parties have executed at least two contracts since that time. Based on these undisputed facts, I conclude that the surgical technologist instrument room position has been historically excluded from the bargaining unit. Robert Wood Johnson University Hospital, 328 NLRB 912, 914

¹ The Employer, Allina Health System d/b/a United Hospital, is a Minnesota non-profit corporation engaged in the operation of an acute care hospital in Saint Paul, Minnesota. During the past calendar year, a representative period, the Employer derived gross revenues in excess of \$500,000 and purchased and received at its Saint Paul, Minnesota facility goods valued in excess of \$50,000 directly from suppliers located outside the State of Minnesota.

(1999); Union Electric Company, 217 NLRB 666, 667 (1975). Because there are one or two pending grievances that on their face seek to include the position in the bargaining unit, I conclude that the unit should be clarified to exclude the surgical technologist instrument room position.² See Ziegler, Inc., 333 NLRB 949 (2001).

ORDER

IT IS HEREBY ORDERED that the bargaining unit be clarified to exclude the surgical technologist instrument room position.³

Signed at Minneapolis, Minnesota, this 15th day of July, 2004.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
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² The pending grievance involves both unit placement and work assignment issues. Nothing in this decision precludes the Union from pursuing a grievance involving a work assignment dispute.

³ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 – 14th Street, N.W. Washington, D.C. 20570. This request must be received by the Board in Washington by **July 29, 2004**.